



Attorney's Do. No. 9725-74

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application of: Lynn A. Russell et al.

Serial No. 09/904,197

Confirmation No. 1211

Filed: July 11, 2001

Group Art Unit: 3653

For: MODULE FOR SCREENING OR DIVERTING PARTICULATE MATERIAL
AND METHOD OF PRODUCING THE MODULE

RESPONSE TO RESTRICTION REQUIREMENT

Responsive to the Office Action Summary dated October 2, 2002, in which the Examiner requested that Applicant restrict the claims in the above-captioned patent application to the following:

Group I - Claims 1-20, drawn to a module classified in class 209, subclass 399.

Group II - Claims 21-40, drawn to a method of producing a module, classified in class 209, subclass 399

Group III - Claims 41 and 42, drawn to a support frame classified in class 209, subclass 405.

Group IV - Claims 43-48, drawn to a post, classified in class 209, subclass 409.

Applicants respectfully traverse the above restriction requirement. Group I drawn to claims 1-20 and Group II drawn to claims 21-40 are both classified in class 209, subclass 399. It is Applicants' view that the examination of the claims of Groups I and II can be readily performed in a single class and subclass and therefore restriction to either one of Groups I or II is not an undue burden to the Examiner. Applicants should not be required to file two separate applications for the claims of Groups I and II.

The Attorney for Applicants had a telephone conference with the Examiner concerning a proposal by the Applicants' regarding the election of claims 1-40 of both Group I and Group II which are both classified in the same class and subclass.

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The Examiner indicated that he would consider this request to limit the restricted claims to Group III and Group IV only. Attorney for Applicant has left telephone messages with the Examiner on several subsequent occasions to determine the status of this matter, but the Examiner has not returned those telephone calls.

If the Examiner will not agree to the provisional election of claims 1-40 of Groups I and II as described above, Applicant hereby makes a provisional election with traverse to prosecute the invention of Group I, claims 1-20, and reserves the right to file divisional applications, or take such other appropriate measures to protect the inventions set forth in Groups II, III and IV.

Applicant hereby petitions the Commissioner to extend the time for response. PTO Form 2038 authorizing credit card payment of \$55.00 for the above-listed fees is enclosed. Any deficiency or overpayment should be charged or credited to deposit account number 13-1703.

Respectfully submitted,



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PATENT TRADEMARK OFFICE

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I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, Washington, DC 20231 Date: December 2, 2002

Jerry Marger